

August 18, 2016

Via ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth St., S.W.
Washington, D.C. 20554

Re: *Ex Parte* Letter, Expanding Consumers' Video Navigation Choices, MB Dkt. No. 16-42; Commercial Availability of Navigation Devices, CS Dkt. No. 97-80

Dear Ms. Dortch:

The Computer & Communications Industry Association (CCIA)¹ respectfully submits this *ex parte* letter in the above-referenced proceedings. In 1996, Congress tasked the Commission with promoting competition in the marketplace for retail, video navigation devices.² In 2014, Congress directed the Commission to convene a working group of experts from a wide range of perspectives to develop a successor to CableCARD to “promote the competitive availability of navigation devices in furtherance of Section 629 of the Communications Act.”³ The Commission held two rounds of public comment in late 2015 on the Downloadable Security Technical Advisory Committee’s (DSTAC) recommendations. In February 2016, recognizing that robust competition has remained elusive, the Commission issued a Notice of Proposed Rulemaking (NPRM).⁴ Since the Commission held two rounds of public comment on the NPRM in April and May 2016, parties have continued expressing opinions and comments regarding the future of how consumers access pay-TV programming.

As parties have raised different points during this debate, CCIA has maintained its support for the Commission’s approach outlined in the NPRM as it would help achieve the goals of a vibrant, competitive marketplace for video navigation devices. Though other parties, notably the National Cable & Telecommunications Association (NCTA), have maintained steady opposition to the NPRM, NCTA has also presented its views as an “apps proposal” through a description of the proposal from an *ex parte* letter,⁵ which was followed by additional

¹ CCIA represents large, medium, and small companies in the high technology products and services sectors, including computer hardware and software, electronic commerce, telecommunications, and Internet products and services. Our members employ more than 750,000 workers and generate annual revenues in excess of \$540 billion.

² See 47 U.S.C. § 549a (2012) (requiring that the Commission “adopt regulations to assure the commercial availability . . . of converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, from manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor.”)

³ STELA Reauthorization Act of 2014 (STELAR), Pub. L. No. 113-200, 128 Stat. 2059, § 106(d)(1).

⁴ Expanding Consumers’ Video Navigation Choices, *Notice of Proposed Rulemaking and Memorandum Opinion and Order*, MB Dkt. No. 16-42, FCC 16-18 (rel. Feb. 18, 2016).

⁵ See Notice of Ex Parte Presentation from Paul Glist, Davis Wright Tremaine LLP, MB Dkt. No. 16-42, CS Dkt. No. 97-80 (filed June 16, 2016) (explaining an approach that would employed MVPD-supplied apps).

information.⁶ Although CCIA believes that the apps proposal, based on the information presented in NCTA's filings, would present challenges for device makers not affiliated with MVPDs,⁷ concerns raised by opponents of the NPRM can be addressed utilizing existing technologies and practices that will promote meaningful competition, innovation, and assure that consumers can access the content for which they have paid.

In this filing, CCIA submits a document titled "'Unlock the Box': How to Address Opposition and Boost Competition". As the Commission works toward achieving the goals of Section 629, there are ways that the proposals in the NPRM and the app proposal can coexist. As discussed further in the attached paper, a Digital Certificate tied to contractual language created by interested stakeholders, for example, can enable consumers to experience and benefit from innovative navigation devices while also addressing privacy, advertising, copyright, and security issues that have been raised during this proceeding. We hope that the information in the document will help the Commission develop a workable solution utilizing existing technologies and practices that will promote meaningful competition.

Sincerely,

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cc: Hon. Tom Wheeler
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David Grossman
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⁶ Response to Questions About Open Standards HTML5 Apps-Based Approach, Rick Chessen & Neal M. Goldberg, National Cable & Telecommunications Association, et al., MB Dkt. No. 16-42, CS Dkt. No. 97-80 (filed July 21, 2016) [hereinafter NCTA Response to Questions].

⁷ Notice of Ex Parte Presentation from John A. Howes, Jr., CCIA, MB Dkt. No. 16-42, CS Dkt. No. 97-80 (filed July 28, 2016).

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